

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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DINO ANTOLINI,

Plaintiff,

19 **CIVIL** 9674 (JMF)(KNF)

-against-

**JUDGMENT**

BRAD THURMAN and 33 BRE INC.,  
Defendants.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated July 21, 2021, Defendants' motion for summary judgment is granted in full. One housekeeping matter remains: Although not mentioned by either side in the summary judgment papers, Defendants alleged in their responsive pleading a "counterclaim" for attorney's fees pursuant to either or both 28 U.S.C. § 1927 and 42 U.S.C. § 12205. ECF No. 12, para. 56.6 Defendants may seek such an award by motion; it does not require a formal "counterclaim." Given the relevant standards, the Court is skeptical that an award of fees would be appropriate in this case, notwithstanding the failure of Antolini's claims. See, e.g., *Nicholas v. Harder*, 637 F. App'x 51, 52 (2d Cir. 2016) (summary order) (describing the standard for prevailing defendants under 42 U.S.C. § 12205 and noting that "it is very rare that victorious defendants in civil rights cases will recover attorneys' fees" (quoting *Sista v. CDC Ixis N. Am., Inc.*, 445 F.3d 161, 178 (2d Cir. 2006))); *Konits v. Karahalidis*, 409 F. App'x 418, 423 (2d Cir. 2011) (summary order) ("[S]anctions may be imposed pursuant to § 1927 only when there is a finding of conduct constituting or akin to bad faith." (cleaned up)). But the Court will reserve judgment on the matter pending a proper motion; accordingly, the case is closed.

**Dated:** New York, New York  
July 21, 2021

**RUBY J. KRAJICK**

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**Clerk of Court**

**BY:**

*K. mango*

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**Deputy Clerk**